

MAINE STATE HARNESS RACING COMMISSION

MINUTES OF MEETING

September 9, 2015

Gambling Control Board Conference Room

Department of Public Safety Building

45 Commerce Drive, Augusta, Maine

Commission Members Present: Barbara Dresser, Chair, Gary Reed, William McFarland and Dirk Duncan.

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier and Miles Greenleaf.

Department Staff Present: Mari Wells Eager.

1. Call the Meeting to Order and Introductions: Barbara Dresser, Chair.

2. Appeals of Presiding Judges Decisions

a. Appeal from Steven Vafiades Concerning Complaint Number 2015 MSHRC 012

Mr. Vafiades is appealing the May 5, 2015 decision of Presiding Judge Frank Hall Jr. in which Judge Hall ruled that Mr. Vafiades violated CMR 01-017, Chapter 11, Section 63, and CMR 01-017, Chapter 17, Section 5, (1) and (3), as a result of an alleged altercation that occurred following the Seventh Race at the Bangor Raceway on May 2, 2015. Judge Hall's decision included a 75 day suspension. Mr. Vafiades was present. Mr. Rancourt represented Mr. Vafiades. AAG, Guay stated that this is a De Novo hearing meaning you listen to the evidence today and then you make your judgment of whether or not a violation occurred. He asked Mr. Rancourt if he had witnesses he wanted to be sequestered during the testimony. Mr. Rancourt asked that all witnesses be sequestered except for his client. Commissioner Duncan was subpoenaed by Mr. Rancourt so he recused himself from the hearing. Mr. Rancourt asked that the finding of the assault be dismissed. Ms. Wells asked the Commission that the dismissal be denied. AAG, Guay stated that this is a motion on procedure. Commissioner McFarland made a motion to deny the motion to dismiss by Mr. Rancourt and the due process rights of Mr. Vafiades are not impaired enough to not hear this case. Commissioner Reed seconded. Vote 3-0. AAG, Guay asked for a witness list from both parties. Ms. Wells presented the following exhibits as Exhibit 1, Notice of Hearing (2); Exhibit 2, License Application; Exhibit 3, Judges Notice of Hearing; Exhibit 4, Judges record of hearing; Exhibit 5, Notice of Judges Decision; Exhibit 6, Notice of Suspension or Fine; Exhibit 7, Statement by Mr. Vafiades; Exhibit 8, Letter Requesting a Stay dated May 6, 2015; Exhibit 9, Appeal form with statement and Exhibit 10, Receipt for the appeal. AAG, Guay admitted exhibits 1-10 without objection by Mr. Rancourt. The following people testified for the State: Frank Hall, Dirk Duncan, Sharon Duncan, Chris Hitchcock, Kevin Switzer, Jr., Elizabeth Switzer, Michael Hitchcock. Mr. Rancourt presented Licensee Exhibit 1, Race Lines from the USTA and Licensee Exhibit 2, Picture of Mr. Vafiades one week after altercation. AAG, Guay admitted the exhibits without objection from the State. The following people testified for counsel: Gloria Cushing, Karen Fitzgerald, Mark Harris, Kim Vafiades, Allan Wilcox and Steven Vafiades. After closing arguments, the Commission went into deliberations. Commissioner Dresser asked for a motion.

Commissioner McFarland made a motion to uphold the appeal that there was no finding of a violation of section 63. Commissioner Reed seconded. Vote 3-0.

b. Appeal from Kim Ireland Concerning Complaint Number 2015 MSHRC 066

Mr. Ireland is appealing an August 27, 2015, decision by Presiding Judge Frank Hall Jr. in which Judge Hall placed the horse, “Just Say Mo” third instead of second in the Fourth Race on August 23, 2015, at Union Fair, due to an alleged violation of CMR 01-017, Chapter 7, Section 60, failure to adhere to the breaking rule. Mr. Ireland was present. Ms. Wells represented Mr. Hall for the Department. AAG, Guay stated that the hearing is a De Novo hearing meaning you listen to the evidence today and then you make your judgment of whether or not a violation occurred. Mr. Ireland waived the notice of hearing. AAG, Guay asked Mr. Ireland if he stipulated to the fact that he was the driver, trainer and part owner of Just Say Mo; and that the horse Just Say Mo incident happened during the fourth race on August 23, 2015 at Union Fair. Mr. Ireland answered yes to both questions. Ms. Wells presented the following exhibits to be admitted into the record: Exhibit 1, Notice of Hearing; Exhibit 2, Written waiver; Exhibit 3, License Application; Exhibit 4, Race Program; Exhibit 5, Notice of Judges Hearing; Exhibit 6, DVD of the race; Exhibit 7, Judges Record; Exhibit 8, Notice of Judges Decision and Exhibit 9, Appeal Form. AAG, Guay admitted these exhibits with objection from Mr. Ireland. Mr. Ireland presented Joint Exhibit 1, as Race Chart August 23, 2015 and DVD. AAG, Guay admitted this exhibit without objection from the State. Mr. Ireland, Mr. Hall, Mr. Merrill and Mr. Stevens all testified. AAG, Guay closed the hearing. Commission members deliberated. Commissioner Dresser asked for a motion. Commissioner Duncan made a motion to overrule the judge’s decision. Commissioner McFarland seconded. Vote 4-0.

3. Review of the Maine State Harness Racing Commission under the Government Evaluation Act

Title 3, Chapter 35, of the Maine Revised Statutes provides for periodic review of state agencies, Boards and Commissions. The Joint Standing Committee on Agriculture, Conservation and Forestry has notified the Maine State Harness Racing Commission that it is the subject of such a review and a report detailing the elements prescribed by Title 3, Chapter 35 is due by November 1, 2015. The Commission will review the requirements of the report and may offer ideas and suggestions for inclusion. Mr. Jennings addressed the Commission briefly. Commissioner Dresser asked to bring this item back to the next meeting.

4. Annual Appointment of Sire Stakes Advisory Committee Membership

CMR 01-017, Chapter 9, Section 1 (1) requires the Commission to annually appoint a committee of advisors to assist the Commission in promoting the Sire Stakes program. At least one member of the committee must be from an association that will host at least one stake race. The Commission will review the list of suggested candidates and appoint the committee. Commissioner Dresser asked Ms. Perkins to present the list of people interested in serving. Ms. Perkins stated that Mr. Kelley, president of the Maine Standardbred Breeders and Owner’s Association would like to see seven members serve on the Committee. After a brief discussion, Ms. Perkins stated that Michael Andrew, Steven Wilson, Michael Hopkins would be representing an association, Diann Perkins, Jim Kelley, Dennis Foss and Gerald

Smith would like to serve on the Sire Stakes Advisory Committee and remove Francis Hanley, David Sawyer and Michael Cushing. Commissioner Dresser asked for a motion. Commissioner McFarland made a motion to approve the list as amended. Commissioner Duncan seconded. Vote 4-0.

5. Commission Interpretation CMR 01-017, Chapter 17, Section 1

CMR 01-017, Chapter 17, Section 1 states, in part, that, “Whenever the penalty of suspension is prescribed in these rules, it shall be construed to mean an expulsion from the time of receipt of written notice of suspension from any participation either directly of [sic] indirectly, in the privileges and uses of the course and grounds of an Association during the progress of a race meeting, unless otherwise specifically limited when such suspension is imposed...” The Commission will review this section of Chapter 17 and discuss the appropriate interpretation. Commissioner Dresser asked for a discussion on the interpretation of this rule. AAG, Guay stated that the Commission would not make a ruling on an interpretation unless there was a case. You can possibly make an advisory ruling.

6. Other Business

Establish a date for Off-track Betting, Live Racing License Renewals and Race Date Assignment Hearings as defined in statute under Title 8 Chapter 11, §270. Licenses and §275-D. Off-track betting. Commissioner Dresser asked if we could have two meetings in November. One for our regular meeting and one for the race date hearings. After discussion, it was decided to hold the meetings on November 4 and November 18, 2015.

7. Public Comment

Commissioner Dresser stated that Mr. Timmons of Cumberland Fair wanted to let everyone know on opening day they would hold a Veteran’s Day appreciation. Ms. Perkins stated that the Cornish Fair will be held on Saturday.

8. Schedule of Future Meetings

October 14, 2015

9. Adjourn

The meeting adjourned at 3:47 p.m.

Respectfully submitted by:
Henry Jennings
Acting Executive Director